

Student Handbook

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Article IV: Code of Conduct Procedures

Saint Mary's College of California

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ARTICLE IV: CODE OF CONDUCT PROCEDURES

The following procedures are designed to offer a fair process in determining, and when appropriate, sanctioning violations of the Code and other College policies, but should not be confused with standards or procedures that apply in civil, criminal, or external administrative legal settings. The student discipline process governing reports of conduct that is alleged to or may be violations of the Sexual Assault and Sexual Misconduct Policy and/or violations of the sexual harassment section of the Policy Prohibiting Discrimination, Harassment, including Sexual, and Retaliation can be found in this Handbook. (See sections on Sexual Assault and Sexual Misconduct Policy and the Policy Prohibiting Discrimination, Harassment, including Sexual, and Retaliation).

Please refer to www.stmarys-ca.edu/studenthandbook for the most current version of conduct procedures.

A. Reports of Conduct and Student Discipline Hearings

1. Any member of the College community, including but not limited to students, staff or faculty, may make a report of conduct involving a student or student organization that may be a violation(s) of the Code and/or other College policies. A report of such conduct can be made either orally or in writing and shall be directed to the Dean of Students, or designee. All reports of conduct must be made prior to the actual physical receipt by the respondent of the terminal degree from the College.

A report of conduct should include:

- a. The name of the student(s), or student organization, alleged to have violated the Code or other College policy;
 - b. A clear factual statement describing the nature of the conduct (date, time, place, witnesses); and
 - c. The name(s), address(es) and telephone number(s) of those filing the report.
2. The Dean of Students, or designee, will review all reports of conduct to determine which sections of the Code and/or other College policies were allegedly violated and refer the case to the appropriate hearing process.

B. Hearing Process

1. There are three hearing options to determine responsibility in student discipline matters for alleged violations of the Code and/or other College policy:
 - a. A hearing between an Administrative Hearing Officer (AHO) and the student(s) individually;
 - b. A hearing before Peer Conduct Council (PCC); or,
 - c. A hearing before a Disciplinary Hearing Board (DHB).

The Dean of Students, or designee, will decide which option will be used.

2. Burden of Proof - The burden of proof shall be on the complainant, who must establish that the violation was committed by the charged student or group by a preponderance of the evidence. In other words, the complainant must prove that it was more likely than not that the student committed the alleged violation.
3. Students are expected to participate in the student discipline process when they are called to an Administrative Hearing, Peer Conduct Council, or Disciplinary Hearing Board as a complainant, respondent or witness. Should a student fail to appear when proper notification has been given or should the student fail to provide a statement during the hearing, the hearing will proceed without benefit of that student's input. Meetings with Administrative Hearing Officers, Peer Conduct Council, and Disciplinary Hearing Boards will be scheduled taking into consideration the student's regular academic schedule only.
4. Students have the option of choosing an advisor to accompany them through the discipline process. The advisor is not an advocate for the student in the proceedings and may not address the hearing body or speak on behalf of the student. The advisor may speak with the student privately and in a manner that is not disruptive to the hearing or student discipline process. The respective student's advisor may be present at any time at which the student they are advising is meeting with the hearing body or other member of the College staff regarding the disciplinary matter and at which the student wishes for them to be present. The advisor is obligated to maintain the confidentiality of the nature of the allegation(s), the content of the student discipline process, and the privacy of the complainant, respondent, and any witnesses known to the advisor. Students are strongly encouraged to choose an advisor to assist them in the discipline process; however, it is the student's decision as to whether to seek an advisor and, if so, who that advisor will be.

5. Civil or criminal rules of evidence shall not apply, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding unless it is demonstrated by the student alleging the deviation that there is significant prejudice to the final outcome of the discipline proceeding as it affects the student sanctioned or the College.
6. The results of lie detector tests will not be accepted in student discipline investigations or proceedings. Tape recordings are not made or permitted in any phase of the discipline process. Student discipline documents (including, but not limited to, contact reports, Public Safety reports and statements) may be reviewed on site at the College by the complainant and/or the Respondent but may not be duplicated or photographed.

Hearings

1. Any trained faculty or staff member may serve as a hearing officer. The Dean of Students or designee determines membership from applications submitted. The Dean of Students, or designee, will provide training and orientation sessions as needed.
2. Students charged with a violation of the Code or other College policy who are directed to meet with a hearing officer or panel will receive either oral or written notice generally twenty-four (24) hours prior to the meeting time.

The hearing officer will meet with the student(s) to:

- a. Discuss the report of alleged conduct,
 - b. The hearing officer investigates the case thoroughly and asks questions of the complainant, and if deemed appropriate to the case, may ask questions of the respondent and witnesses identified by either the complainant and/or respondent.
 - c. Determine an appropriate finding:
 - i. It is more likely than not that the alleged conduct did not occur and the respondent is not responsible for a violation of the Code or College policy; or
 - ii. It is more likely than not that the alleged conduct occurred and the respondent is responsible for a violation of the Code or College policy. If the respondent is found responsible, the hearing officer will impose appropriate sanctions.
 - d. After a decision has been rendered, the respondent will receive a letter summarizing the outcome and sanctions as appropriate, generally within seven (7) business days; however, unavoidable delay in providing notice of outcome is not an available ground for appeal.
3. If a sanction has been imposed, it is the responsibility of the student to ensure that Community Life receives notice of completion of the sanction in writing. Failure to complete a sanction may result in the assessment of additional sanctions without another hearing.

Peer Conduct Council

1. The Peer Conduct Council pool consists of approximately fifteen (15) students. The Dean of Students, or designee, determines membership from applications submitted by students.
2. It is required that Peer Conduct Council members exhibit the highest ethical standards, disqualify themselves if they believe they cannot be impartial and/or fulfill their obligation to maintain the confidentiality of the process and dignity and privacy of the complainant, the respondent, and any witnesses before, during, and after the process consistent with applicable laws and College policy governing student privacy rights. In addition, the Dean of Students, or

designee, is charged with deciding, at his/her sole discretion, whether a Peer Conduct Council member can be impartial or respectful of the confidentiality of the process and the privacy of the individual(s) involved. The decision of the Dean of Students, or designee, is final.

3. The Dean of Students, or designee, will provide the Peer Conduct Council members training and orientation sessions as needed.
4. Three (3) members of the Peer Conduct Council pool will generally be called to sit on a Peer Conduct Council panel based on availability and experience. Each panel will identify a chair, whose role is to facilitate the hearing and ensure compliance with the process and procedures outlined below.
5. Students charged with a violation of the Code or other College policies who are directed to meet with the Peer Conduct Council will receive oral or written notice generally twenty-four (24) hours prior to the meeting time.
6. Student discipline hearings shall be conducted by a Peer Conduct Council panel according to the following general guidelines:
 - a. The Chair of the Peer Conduct Council panel will explain the procedures.
 - b. The Chair will read (if written) or explain (if oral) the alleged violation(s) of the Code or other College policy and the report of conduct.
 - c. The complainant (if available) and respondent will be asked to make a statement regarding the allegation(s) of the complaint.
 - d. Peer Conduct Council individually asks questions of the complainant (if applicable) and the respondent. As the Peer Conduct Council deems appropriate to the case, they may ask questions of witnesses identified by either the complainant and/or respondent.
 - e. After all questions have been asked, and if they choose, the complainant and the respondent may make a closing statement to the Peer Conduct Council.
 - f. Peer Conduct Council will then meet in private and, based on their investigation and interviews, will deliberate on the information provided and determine an appropriate finding:
 - a. It is more likely than not that the alleged conduct did not occur and the respondent is not responsible for a violation of the Code or College policy; or
 - b. It is more likely than not that the alleged conduct occurred and the respondent is responsible for a violation of the Code or College policy and imposes appropriate sanctions.
 - g. The chair will notify in writing to the Dean of Students, or designee, of the hearing's outcome within twenty-four (24) hours of its completion. The Dean of Students, or designee, will communicate the finding of the Peer Conduct Council to the respondent in writing generally within seven (7) business days; however, unavoidable delay in providing notice of outcome is not an available ground for appeal.
7. If a sanction has been imposed, it is the responsibility of the student to ensure that Community Life receives notice of completion of the sanction in writing. Failure to complete a sanction may result in the assessment of additional sanctions without another hearing.

Disciplinary Hearing Board

1. The Disciplinary Hearing Board (DHB) consists of a pool of trained faculty and staff. The Dean of Students, or designee, determines membership from faculty nominated by the Chair of the Faculty Senate, and other staff of the College as recommended to the Dean of Students, or designee.
2. It is expected that DHB will exhibit the highest ethical standards, disqualify themselves if they believe they cannot be impartial and/or fulfill their obligation to maintain the confidentiality of the process and the dignity and privacy of the complainant, the respondent, and any witnesses before, during, and after the process consistent with applicable laws and College policy governing student privacy rights. In addition, the Dean of Students, or designee, will decide, at his/her sole discretion, whether a DHB member can be impartial and will remove anyone whom he/she determines is unable to be impartial or respectful of the confidentiality of the process and the privacy of the individual(s) involved. The decision of the Dean of Students, or designee, is final. The Dean of Students, or designee, will provide training and orientation sessions for the DHB pool as needed.
3. Three (3) members of the DHB pool will generally be called to sit on a DHB panel based on availability and experience.
4. Prior to a DHB proceeding, the investigation process will take place. A reasonable investigation is a vital part of a fair disciplinary procedure. Taking time to establish the facts behind disciplinary allegations can help to ensure a fair process for the respondent and complainant. Both the respondent and the complainant will have the opportunity to identify potential witnesses and to provide information to the investigator. The investigator shall have the discretion to interview any potential witnesses as needed, including witnesses the investigator identifies through the course of his/her investigation. The investigator may determine that not all identified witnesses need be interviewed if the investigator determines that he/she has sufficient information to complete his/her report or if the investigator determines that information that would be provided by additional witnesses would merely be cumulative. The Investigation Report will include information and witness statements that the investigator has determined to be relevant to the allegations, including information that may have been provided by the respondent, the complainant or otherwise developed through the investigation process. Both respondent and complainant will have the opportunity to review the report in advance of the hearing. This report is also shared with the DHB in advance of the hearing.
5. In addition to the three voting members identified above, each DHB proceeding will consist of a facilitator whose role is to facilitate the hearing and to guide compliance with the process and procedures outlined below.
6. Students charged with a violation of the Code or other College policies who are directed to meet with a DHB will receive oral or written notice generally twenty-four (24) hours prior to the meeting time.
7. Student discipline hearings shall be conducted by a Disciplinary Hearing Board according to the following general guidelines:

- a. DHB panel proceedings are closed to all parties except the individual student(s), the DHB panel, the facilitator, the investigator, witnesses, the respective students' advisor(s), and a recorder.
- b. The facilitator will convene the DHB panel.
- c. The facilitator will introduce the DHB panel to the complainant/respondent and explain the hearing process.
- d. The facilitator will read the alleged violation(s) of the Code or other College policy and will read (if written) or explain (if oral) the report of conduct.
- e. The complainant (if available) and respondent will be invited separately to the DHB, regarding the allegation(s) of the complaint.
- f. The facilitator will ask the investigator to read the investigation report aloud and/or will read aloud any changes that have been made since the DHB's receipt of the written report, if requested by the participating student.
- g. The facilitator will then ask the DHB panel if they have any additional questions of the investigator about the report or if they would like to direct clarifying questions to the complainant (if appropriate) / respondent. If the DHB wants to ask the complainant/respondent clarifying questions directly, the facilitator will first ask the complainant/respondent if they are comfortable responding directly to the DHB or if they prefer to defer to the investigator. As the DHB panel deems appropriate to the case, the panel may invite and ask clarifying questions of witnesses identified by either the complainant and/or respondent. All participants (complainant, respondent, and their respective advisors) must be available for recall by the DHB panel for additional questioning until the facilitator excuses them.
- h. After all questions have been asked by the DHB panel, and if the party chooses, the complainant and the respondent may each make a closing statement to the DHB panel. The purpose of the closing statement is to provide the DHB with information that the complainant or respondent would like the DHB to consider in making its decision regarding responsibility. Statements may be oral, written, or both.
- i. The facilitator excuses the respondent from the proceedings after they make their closing statement to the DHB panel.
- j. The facilitator excuses the complainant from the proceedings after they make their closing statement to the DHB panel.
- k. The DHB panel will then meet in private and, based on the investigation and interviews, will deliberate on the information provided and determine an appropriate finding:
 - i. Using a preponderance of the evidence standard, it is more likely than not that the alleged conduct did occur, but the respondent is not responsible for a violation of the Code or College policy; or
 - ii. Using a preponderance of the evidence standard, it is more likely than not that the alleged conduct did not occur, and the respondent is not responsible for a violation of the Code or College policy; or
 - iii. Using a preponderance of the evidence standard, it is more likely than not that the alleged, conduct did occur and the respondent is responsible for a violation of the Code or College policy and imposes appropriate sanctions.
- l. The DHB will notify the Dean of Students, or designee, in writing of the hearing's outcome within twenty-four (24) hours of its completion. The Dean of Students, or designee, will communicate the finding of the DHB panel to the respondent and the complainant in writing generally within seven (7) business days; however, unavoidable delay in providing notice of outcome is not an available ground for appeal.

8. If a sanction has been imposed, it is the responsibility of the student to ensure that Community Life receives notice of completion of the sanction in writing. Failure to complete a sanction may result in the assessment of additional sanctions without another hearing.

C. Confidentiality/Student Privacy

Reasonable and appropriate effort is taken by the Dean of Students, or designee, and all other involved staff to protect the privacy of all individuals who may be involved in a student discipline proceeding as well as the confidentiality of the details and content of the student discipline process, including, but not limited to, an investigation, an Administrative Hearing, Peer Conduct Council, or Disciplinary Hearing Board proceeding, and, except where permitted by College policy and consistent with applicable law, the sanctions imposed and on whom. However, the College cannot guarantee absolute confidentiality. Individuals involved in the student discipline process, either directly or as a witness, are expected to maintain the confidentiality of the process and be mindful of the privacy of others involved.

D. Sanctions

Sanctions are assessed in response to the specific conduct, the student discipline history of the respondent and in keeping with the policies and procedures described in this handbook so that the student's educational growth and personal development may take place. The assessment of sanctions within the student discipline process is itself part of the College's educational mission and process, even in the case of the sanction of Expulsion.

1. The following sanctions may be imposed upon any student found to have violated the Code (more than one of the sanctions listed below may be imposed for any single violation):
 - a. **Warning:** A notice in writing to the student or student organization that the student is violating or has violated the Code or other College policy.
 - b. **Loss of Privileges:** Denial of specified privileges for a designated period of time. Examples include, but are not limited to, guests, computer use, housing selection, dining, participation in athletics, student government, co-curricular activities, on- campus student employment, recreational and/or social activities.
 - c. **No Contact Directive:** A no contact directive, specific to a person and/or location, prohibits a student from having direct or indirect communication or contact with a specified person; including, but not limited to in person communication, electronic communication, mail, and/or third party communication.
 - d. **Loss of Recognition:** The College may de-recognize student organizations for a specific time period or permanently. In the case of the former, the time period and conditions for reapplying for recognition and resumption of the associated privileges will be outlined.
 - e. **Fines:** As appropriate to the violation, a fine may be imposed.
 - f. **Restitution:** Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
 - g. **Parental Notification:** Parents/guardians of a student who is under the age of 21 and found responsible for an alcohol or other drug violation may be notified by the Dean of Students, or designee, in the form of a letter under certain circumstances. Please refer to the Parental Notification Policy for further explanation.
 - h. **Programs/Projects/Activities:** Programs/Projects/Activities that help the student understand the inappropriateness of the conduct and designed to help the student become

more aware of the Code and other College policies. Examples include, but are not limited to, reflection papers or assignments, online programs, letters of apology, service to the College or an off- campus resource, or other related educational assignments.

- i. **Health/Counseling Assessment:** Referral to the Health and/or Counseling and Psychological Services and completion of assessment and any recommended treatments.
- j. **Restricted Access:** Conditions imposed on a student that specifically dictate and limit his/her future presence on the campus and/or participation in College sponsored activities. The restrictions will be clearly defined and may include, but are not limited to, presence in certain buildings or locations on the campus or a no contact order forbidding the student from contact with another member of the community.
- k. **Residence Hall Relocation:** A student may be relocated to another College residence hall or room.
- l. **Residence Hall Suspension:** The removal of the student from College housing (without refund) for a defined period of time after which the student is eligible to apply for readmission to College housing. During the period of Residence Hall Suspension, the student shall not enter any College residence hall except to conduct College related business with an office located within a residence hall.
- m. **Stayed Residence Hall Suspension:** When the nature of the violation is serious enough that Residence Hall Suspension is warranted but there may be factors and/or conditions that support allowing the student to remain in College housing, without endangering the health or safety of the student or other student(s), the sanction of Residence Hall Suspension may be placed in stayed status for a defined period of time. If the student is found in violation of the Code or other College policy during the time of stayed status, removal from College housing (without refund) takes effect immediately without further review. The student is also subject to additional sanctions appropriate to the new violation.
- n. **Residence Hall Expulsion:** The student is permanently removed from College housing (without refund) and may not enter any College residence hall except to conduct College related business with an office located within a residence hall.
- o. **Probation:** A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to violate any institutional regulation(s) during the probationary period.
- p. **College Suspension:** Separation of the student from the College (without refund) for a defined period of time, after which the student is eligible to apply for readmission. Readmission is not guaranteed. During the suspension period, the student is not permitted on campus and shall not participate in any off- campus College sponsored /affiliated activity.
- q. **Stayed College Suspension:** When the nature of the violation is serious enough that College Suspension is warranted but there may be factors and/or conditions that support allowing the student to remain in the College, without endangering the health or safety of the student or other student(s), the sanction of College Suspension may be placed in stayed status for a defined period of time. If the student is found in violation of the Code or other College policy during the time of stayed status, removal from the College (without refund) takes effect immediately without further review. The student is also subject to additional sanctions appropriate to the new violation. A stayed College suspension is not available when a mandatory minimum sanction is required under College policies (see e.g., the Sexual Assault and Sexual Misconduct Policy.).
- r. **College Expulsion:** Permanent separation (without refund) of the student from the College

prior to the actual physical receipt of the College diploma. A student who is expelled will not be eligible to receive an academic degree from the College at any time. The student is not permitted on the campus and shall not participate in any off-campus College sponsored/affiliated activity. The College may rescind a College degree following the awarding of a College diploma, or may withhold the awarding of a degree pending the outcome of the student discipline process for a violation of the Code or other College policy, that does, or would have the potential to, result in the sanction of Expulsion. The sanction of Expulsion is noted on the student's academic transcript. Expulsion is not considered to be punitive or a deterrent in the criminal or civil sense, but rather a determination by the College that the student has demonstrated by his/her conduct that he/she is unqualified to continue as a member of the College community.

- s. **Withholding Degree:** The College may withhold awarding a degree otherwise earned until the completion of the process set forth in this Code, including the completion of all sanctions imposed, if any.

E. Interim Suspension/ No Contact Directive

In certain circumstances, the Dean of Students, or designee, may impose an interim suspension of College privileges and/or a no contact directive.

1. Interim suspension and/or a no contact directive may be imposed:
 - a. In instances where it is determined that a student poses a potential threat to another;
 - b. To ensure the safety and wellbeing of members of the College community or preservation of College property;
 - c. To ensure the student's own physical or emotional safety and wellbeing; or
 - d. If the student poses a threat of disruptions or interference with the normal operations of the College.
2. Every attempt will be made by the Dean of Students, or designee, to meet as soon as possible with the student before implementing an interim suspension and/or a no contact directive. The decision will be communicated in writing to the student.
3. During the interim suspension, a student may be denied access to the residence halls and/or to the campus (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible, as the Dean of Students may determine to be appropriate.
4. The no contact directive, specific to a person and/or location, prohibits a student from having direct or indirect communication or contact with a specified person; including, but not limited to in person communication, electronic communication, mail, and/or third party communication.
5. The interim suspension or no contact directive does not replace the regular student discipline process, which shall proceed on the normal schedule, if required.
6. The interim suspension and/or no contact directive shall remain in effect until the Dean of Students, or designee, determines that the reason for imposing the suspension or no contact directive no longer exists.

F. Appeals

1. The decision of the Disciplinary Hearing Board regarding responsibility may be appealed by the Respondent or Complainant within five (5) business days of the decision. The decision of a Peer Conduct Council or Administrative Hearing regarding responsibility may be appealed by the accused student within five (5) business days of the decision. The purpose of the appeal is not to rehear the underlying student discipline case. The sole purpose of an appeal is to determine if there is, in the first instance, sufficient information based on the written record before the appeal officer or Appeal Board to establish its jurisdiction to consider and decide the appeal and, if so, thereafter, to determine whether the information submitted by the student states sufficient grounds (see below) to grant the appeal and take any of the actions described below.
2. Only one appeal is permitted. Such appeals shall be submitted in writing, signed by the student and shall be delivered to the Dean of Students, or designee. The appeal may only be submitted by the student and shall consist of:
 - a. A completed Appeal Request Form (available in the Office of the Dean of Students and the Office of Community Life or on the Community Life website), and
 - b. A statement outlining and supporting the specific basis upon which the student is appealing.
3. An appeal must be based on one or more of the following grounds or it will not be accepted and considered:
 - a. A process or procedural error was made that was significantly prejudicial to the outcome of the hearing as it affects the student appealing.
 - b. New information that was not available or known to the student appealing at the time of the hearing has arisen which, when considered, may materially alter the outcome. NOTE: Information that the appealing student chose not to present at the time of the hearing is not considered new information.
 - c. The severity of the sanction imposed was not appropriate based on the section of the Code or other College policy which the student was found to have violated.
4. Any person who is a member of the Disciplinary Hearing Board may also serve on the Appeal Board or as an Appeal Officer, but may not be one of the three (3) original DHB panel members or facilitator. The Dean of Students, or designee, determines who will serve on the Appeal Board or as an Appeal Officer. An Appeal Board shall be composed of two members of the DHB pool and the Vice Provost of Student Life, or designee.
5. For Peer Conduct Council or Administrative Hearing Appeals, the Dean of Students or designee will serve as the appeal officer.
6. The Appeal Board or Appeal Officer will not meet with the student or re-hear the case. The Appeal Board or Appeal Officer will consider the merits of an appeal on the basis of the information provided in the Appeal Request form, the student's written statement, character testimonies, the written record of the case, and the student's entire discipline record.
7. For the sanction of College Expulsion, the Appeal Board is composed of the Dean of Students, or designee, as chair and two (2) members of the DHB pool. If a DHB panel delivered the sanction

of College Expulsion, those DHB panel members who delivered the sanction are not eligible to serve on that Appeal Board.

8. During the consideration of a request for an appeal, sanctions assessed by the hearing officer, Peer Conduct Council or DHB shall not be in effect. However, the Dean of Students, or designee, may impose conditions or continue existing conditions governing the respondent's continued relationship with the College during the appeal process.
9. Based on the information provided in the Appeal Request form, the student's written statement, character testimonies, the written record of the case, and the student's entire discipline record, the Appeal Board or Appeal Officer will:
 - a. Reject the appeal if it finds the basis for appeal unsubstantiated; or
 - b. Reject the appeal if it finds that any procedural errors were minor in nature and would not have altered the outcome of the hearing or the sanctions imposed; or
 - c. Modify the sanction(s) if they are found to be inappropriate; or
 - d. Return the case to the hearing officer, Peer Conduct Council or DHB for further consideration (which may include but does not require a rehearing of the entire matter) if a procedural error or new information, as defined above, has arisen. In such cases, the same hearing officer, Peer Conduct Council or DHB who originally heard the case shall reconvene as soon as possible. If the hearing officer or a member of the original Peer Conduct Council or DHB is no longer available, the Dean of Students, or designee, will appoint another hearing officer, or in the case of the unavailability of one or more of the Peer Conduct Council or DHB members, he/she will select additional Peer Conduct Council members or DHB members from the Peer Conduct Council and DHB pools.
 - e. Reverse the decision of the hearing officer, Peer Conduct Council or DHB or remand the case to a new hearing officer, Peer Conduct Council or DHB for further consideration where substantial procedural error is determined to have unfairly influenced the hearing.
10. If an appeal is not upheld, the matter shall be considered final and binding upon all involved.
11. The appeal decision will be communicated to the respondent in writing once a decision has been reached. The decision of the Appeal Board or Appeal Officer is final and no further appeals are permitted.